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UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

VERMONT AVE FEE OWNER, LLC,

Plaintiff,

v.

FASHBLVD, INC., et al.,

Defendants.

Case No. CV 18-05805-PSG (RAOx)

**ORDER REMANDING ACTION  
AND DENYING REQUEST TO  
PROCEED IN FORMA PAUPERIS**

**I.**

**FACTUAL BACKGROUND**

Plaintiff Vermont Ave Fee Owner, LLC ("Plaintiff") filed an unlawful detainer action in Los Angeles County Superior Court against Defendants Fashblvd Inc., LLC, Angela Sheen, and Does 1 to 10 ("Defendants"), on or about April 24, 2018. Notice of Removal ("Removal") and Attached Complaint ("Compl."), Dkt. No. 1. Defendants are allegedly tenants of real property located in Los Angeles, California ("the property"). Compl. ¶¶ 3, 6. Plaintiff is the lessor of the property. *Id.* at ¶¶ 4-5. Plaintiff filed the unlawful detainer action demanding that Defendants pay past due rent or deliver up possession of the property. *Id.* at ¶¶ 10-11.

Defendant Angela Sheen filed a Notice of Removal on July 2, 2018, invoking

1 the Court's federal question jurisdiction. Removal at 2-8. Defendant Sheen also  
2 filed a Request to Proceed *In Forma Pauperis*. Dkt. No. 3.

## 3 II.

### 4 DISCUSSION

5 Federal courts are courts of limited jurisdiction, having subject matter  
6 jurisdiction only over matters authorized by the Constitution and statute. *See, e.g.,*  
7 *Kokkonen v. Guardian Life Ins. Co.*, 511 U.S. 375, 377, 114 S. Ct. 1673, 128 L. Ed.  
8 2d 391 (1994). It is this Court's duty always to examine its own subject matter  
9 jurisdiction, *see Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514, 126 S. Ct. 1235, 163 L.  
10 Ed. 2d 1097 (2006), and the Court may remand a case summarily if there is an  
11 obvious jurisdictional issue. *Cf. Scholastic Entm't, Inc. v. Fox Entm't Grp., Inc.*,  
12 336 F.3d 982, 985 (9th Cir. 2003) ("While a party is entitled to notice and an  
13 opportunity to respond when a court contemplates dismissing a claim on the merits,  
14 it is not so when the dismissal is for lack of subject matter jurisdiction.") (omitting  
15 internal citations). A defendant attempting to remove an action from state to  
16 federal court bears the burden of proving that jurisdiction exists. *See Scott v.*  
17 *Breeland*, 792 F.2d 925, 927 (9th Cir. 1986). Further, a "strong presumption"  
18 against removal jurisdiction exists. *See Gaus v. Miles, Inc.*, 980 F.2d 564, 567 (9th  
19 Cir. 1992).

20 Defendant Sheen asserts that this Court has subject matter jurisdiction  
21 pursuant to 28 U.S.C. §§ 1331 and 1441. Removal at 2. Section 1441 provides, in  
22 relevant part, that a defendant may remove to federal court a civil action in state  
23 court of which the federal court has original jurisdiction. *See* 28 U.S.C. § 1441(a).  
24 Section 1331 provides that federal "district courts shall have original jurisdiction of  
25 all civil actions arising under the Constitution, laws, or treaties of the United  
26 States." *See id.* § 1331.

1 Here, the Court's review of the Notice of Removal and attached Complaint  
2 makes clear that this Court does not have federal question jurisdiction over the  
3 instant matter under 28 U.S.C. § 1331. First, there is no federal question apparent  
4 from the face of the Complaint, which appears to allege only a simple unlawful  
5 detainer cause of action. *See Wescom Credit Union v. Dudley*, No. CV 10-8203  
6 GAF (SSx), 2010 WL 4916578, at \*2 (C. D. Cal. Nov. 22, 2010) ("An unlawful  
7 detainer action does not arise under federal law.") (citation omitted); *IndyMac*  
8 *Federal Bank, F.S.B. v. Ocampo*, No. EDCV 09-2337-PA (DTBx), 2010 WL  
9 234828, at \*2 (C.D.Cal. Jan. 13, 2010) (remanding an action to state court for lack  
10 of subject matter jurisdiction where plaintiff's complaint contained only an  
11 unlawful detainer claim).

12 Second, there is no merit to Defendant Sheen's contention that federal  
13 question jurisdiction exists based on the Protecting Tenants at Foreclosure Act of  
14 2009 ("PTFA"). Removal at 2-8. The PTFA does not create a private right of  
15 action; rather, it provides a defense to state law unlawful detainer actions. *See*  
16 *Logan v. U.S. Bank Nat. Assn*, 722 F.3d 1163, 1164 (9th Cir. 2013) (affirming  
17 dismissal of the complaint because the PTFA "does not create a private right of  
18 action allowing [plaintiff] to enforce its requirements"). It is well settled that a  
19 "case may not be removed to federal court on the basis of a federal defense . . . even  
20 if the defense is anticipated in the plaintiff's complaint, and even if both parties  
21 concede that the federal defense is the only question truly at issue." *Caterpillar*  
22 *Inc. v. Williams*, 482 U.S. 386, 393, 107 S. Ct. 2425, 2430, 96 L. Ed. 318 (1987).  
23 Thus, to the extent Defendant's defenses to the unlawful detainer action are based  
24 on alleged violations of federal law, those defenses do not provide a basis for  
25 federal question jurisdiction. *See id.* Because Plaintiff's complaint does not  
26 present a federal question, either on its face or as artfully pled, the Court lacks  
27 jurisdiction under 28 U.S.C. § 1331.  
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4 **III.**  
**CONCLUSION**

5 Accordingly, IT IS ORDERED that this case is REMANDED to the Superior  
6 Court of California, County of Los Angeles, forthwith.

7 IT IS FURTHER ORDERED that Defendant's Request to Proceed *In Forma*  
8 *Pauperis* is DENIED as moot.

9 IT IS SO ORDERED.

10 DATED: 7/12/18

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13 PHILIP S. GUTIERREZ  
14 UNITED STATES DISTRICT JUDGE

15 Presented by:

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17 ROZELLA A. OLIVER  
18 UNITED STATES MAGISTRATE JUDGE  
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